IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA **ASHEVILLE DIVISION** CIVIL CASE NO. 1:09cv109

ERNEST H. MCDANIEL,)
Plaintiff,)
vs.)
MICHAEL J. ASTRUE, Commissioner of Social Security,)
Defendant.)

JUDGMENT

For the reasons set forth in the Memorandum and Order filed herewith,

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Memorandum & Recommendation is ACCEPTED, Plaintiff's Motions for Summary Judgment and receipt of New and Material Evidence are **DENIED**; the Defendant's Motion for Summary Judgment is GRANTED; and the Commissioner's decision is hereby AFFIRMED. This case is hereby Signed: August 12, 2010

DISMISSED WITH PREJUDICE.

Martin Reidinger United States District Judge